

MONTANA LEGISLATIVE HISTORY

Chapter 520 19 91

Bill H _____ S 93 Original bill & history C

H. Committee on Taxation

Hearing Date(s) Feb 20 ✓ C

Apr 08 ✓ C

_____ C

_____ C

Date Out Apr 08 ✓ C

S. Committee on Taxation

Hearing Date(s) Jan 23 ✓ C

Jan 29 ✓ C

Feb 04 ✓ C

_____ C

Feb 04 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

EFFECTIVE DATE: 3/18/91

SB 93 INTRODUCED BY GAGE

REVISE THE RESOURCE INDEMNITY TRUST TAX BY CHANGING
THE RATE ON COAL AND METHOD OF VALUING COAL

1/15	INTRODUCED		
1/15	FIRST READING		
1/15	REFERRED TO TAXATION		
1/15	FISCAL NOTE REQUESTED		
1/18	FISCAL NOTE RECEIVED		
1/19	FISCAL NOTE PRINTED		
1/23	HEARING		
1/29	TABLED IN COMMITTEE		
2/04	TAKEN FROM TABLE		
2/05	COMMITTEE REPORT—BILL PASSED		
2/06	2ND READING PASSED	40	7
2/07	3RD READING PASSED	45	4
	TRANSMITTED TO HOUSE		
2/09	FIRST READING		
2/09	REFERRED TO TAXATION		
2/20	HEARING		
4/08	COMMITTEE REPORT—BILL CONCURRED		
4/10	REVISED FISCAL NOTE REQUESTED		
4/10	2ND READING CONCURRED	65	29
4/11	3RD READING CONCURRED	76	21
	RETURNED TO SENATE		
4/17	SIGNED BY PRESIDENT		
4/18	SIGNED BY SPEAKER		
4/18	TRANSMITTED TO GOVERNOR		
4/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 520		

EFFECTIVE DATE: 4/22/91

SB 94 INTRODUCED BY T. BECK, ET AL.

ESTABLISH GROUND WATER CHARACTERIZATION AND
MONITORING PROGRAMS
BY REQUEST OF ENVIRONMENTAL QUALITY COUNCIL

1/15	INTRODUCED		
1/15	REFERRED TO NATURAL RESOURCES		
1/15	FIRST READING		
1/15	FISCAL NOTE REQUESTED		
1/21	FISCAL NOTE RECEIVED		
1/22	FISCAL NOTE PRINTED		
1/28	HEARING		
2/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/15	2ND READING PASSED	47	2
2/16	3RD READING PASSED	44	4
	TRANSMITTED TO HOUSE		
2/18	FIRST READING		
2/18	REFERRED TO NATURAL RESOURCES		
3/12	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/14	REREFERRED TO TAXATION		
4/09	HEARING		
4/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/15	2ND READING CONCURRED	70	24
4/16	3RD READING CONCURRED	79	20
	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS NOT CONCURRED	49	0
4/18	CONFERENCE COMMITTEE APPOINTED		
4/22	CONFERENCE COMMITTEE DISSOLVED		

Bill Salsbury, Department of Highways, said the Governor has a policy of supporting the development of ethanol. Because there is a drain on highway funding, the administration would prefer a phase in of incentives in order to facilitate planning and lessen the impact.

Senator Towe said there is only one company involved in ethanol production and they indicated they could not begin to reach the cap level.

Mr. Salsbury said the cap needs to be in place for future development possibilities.

Closing by Sponsor:

Senator Koehnke closed and noted the Governor supports using ethanol in state vehicles and there are two bills being introduced to implement that action.

HEARING ON SENATE BILL 93

Presentation and Opening Statement by Sponsor:

Senator Gage, District 5, sponsor, submitted information to the Committee explaining the determination of the valuation of coal at "mine mouth" (Exhibit #8). The coal industry and DOR have had difficulty determining the mine mouth value. There are problems determining what exactly direct costs through extraction and total direct costs are as well as other variable factors. The bill is an attempt to keep the RIT tax relatively tax neutral but simplify the base on which the base is calculated. In order to do that, the method of valuing the coal at the mine mouth is being increased. Consequently, if that value is going to be increased by the method of valuation, a certain percent of the tax must be reduced in order to arrive at the same amount of tax that is being paid. The fiscal impact is minimal. The whole intent of the bill is simplify and clarify the computation of the mine mouth value on which the RIT tax would be based.

Proponents' Testimony:

Jim Mockler, Executive Director, Montana Coal Council, said the RIT tax has been in place since 1973. Because of change of administration and interpretation of the RITT law, a great deal of confusion has resulted in just exactly what factors are to be used in the calculations. The bill would establish the basis of the tax on the contract sales price which is the basis for the contract severance tax and gross proceeds tax, the other two taxes that are paid on coal. Administratively, this method would save DOR a tremendous amount of money. A federal fee of 35 cents

a ton is paid on coal; a minimum of 17.5 cents comes back to Montana for mitigation of natural resource damage. So far the coal industry has paid over \$62 million into that fund which goes directly to the Department of State Lands. It is administered by the Department of State Lands and is spent every year, to date in 37 different counties. Mr. Mockler feels the industry is paying their fair share, the impact of the bill is minimal, and the administrative costs that are saved far outweigh the costs. It is impossible to come up with an exact figure because the RITT tax is confidential. He said .4% is the closest figure the Coal Council could determine, which he felt would cost about \$200,000. He said they would be willing to pay the extra just to have all the taxes based on one level. He presented a paper determining the RITT at .4% and .5% for calendar years 1988 and 1989 to the Committee (Exhibit #9).

Tom Ebzery, representing NERCO, which operates the Spring Creek Mine north of Decker, said their production in 1988 was 4.7 million tons, in 1989 6 million tons, and in 1990 7.1 million tons. He said this is a bona fide problem that needs to be solved and he expressed for the bill. He felt the .33 would be revenue neutral and .4 would be a slight increase, however, he agreed with Mr. Mockler that a slight increase would be fine if it finally eliminated the many problems associated with the tax.

Diana Tickner, Western Energy Company, said she also felt the bill would mean a slight increase but they support it as it does make the administration of the tax easier for both the companies and the Department.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Towe asked for an explanation of the decision.

Mr. Ebzery said to the best of his memory in 1983 -84 the Department of Revenue had a difference of opinion as to where the value was of the definition of "gross extraction from the ground" (the gross value of the product at the time of extraction). The DOR believed the time of extraction was later in the process and the companies believed it was at the mine face. Judge Bennett agreed with the coal companies and the value was established at the mine face.

Closing by Sponsor:

Senator Gage closed by saying anytime there is talk about oil, gas, or coal, everyone thinks there is mischief in it. He assured the Committee there is no mischief in this bill. It simplifies the process, establishes a base, sets a price and the rates for it.

COMMITTEE ON

Taxation

SB 93, 77, 116

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Dennis Adam	DOR			
TOM KRYZER	Self	SB 77	✓	
DIANNA TICKNER	WESTERN ENERGY	SB 93	✓	
Kate Tremblay	WIFE	SB 77	✓	
JANE A. PADERMILLER	SELF	SB 77	✓	
James Anderson	Tobacco Institute	SB 116	✓	
Rep. Mike Foster	House Dist # 32	SB 77	✓	
Gordon Deig	Alcotek	SB 77	✓	
Jim MacGillivray	MT. Coal Council	SB 93	✓	
LORNA FRANK	FARM Bureau	SB 77	✓	
Kim Ginkell	MT Stockgrowers	SB 77	✓	
Linda Nelson	HD 19	SB 77	✓	
Don Stepples	HD 21	SB 77	✓	
Steve Buckner	State Service Dist.	SB 116	✓	
MIKE PETERSON	FARMINGTON	SB 116	✓	
Clayton Kaufmann	MEIC	SB 77	✓	
Don Stanton	self / Alcotek	SB 77	✓	
John Tubbs	DNR	SB 93		
Neva Hassanein	NPRC	SB 77	✓	
Al Kurki	AERO	SB 77	✓	
Bill Salisbury	Dept. of Highway	SB 77		
Kay Foster	Billings Chamber	SB 77	✓	
Charles R. Brooks	MT R+T / ISSOC	SB 116	✓	
Lorraine Gillies	M Farm Bureau	SB 77	✓	
Tom Ebzery	Nevco	SB 93	✓	
Shirley Bail	Harmon	SB 77	✓	

(Please leave prepared statement with Secretary)

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 1/23/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

Illustrative Computation Under 4/6/74 Rules

"Total Costs of Operation

"Excavation	\$ 1,000,000.00
Loading	250,000.00
Hauling	500,000.00
Crushing	500,000.00
Maintenance & Supplies	100,000.00
Property taxes on equipment	50,000.00
Severance, RITT, Gross Proceeds & Fed. taxes	3,500,000.00
Royalties	50,000.00
Reclamation	500,000.00
Supervisor & overhead costs	200,000.00
Depreciation	250,000.00
Total costs	\$ 6,900,000.00
Gross Sales	\$10,000,000.00
Less Total Costs	6,900,000.00
Profit	\$ 3,100,000.00

"Gross Sales	\$10,000,000.00
Less: Post mining expenses	
Hauling	\$500,000.00
Crushing	\$500,000.00
Maintenance & Supplies	\$100,000.00
	\$ 1,100,000.00
	\$ 8,900,000.00

"Less: Indirect costs attributable to both	
Mining & post mining operations	
1,100,000/6,900,000 -15.9% x	
Taxes on equipment	\$ 50,000 = \$ 7,971.00
Severance, RITT, etc.	\$3,500,000 = \$557,971.00
Supervision & overhead	\$ 200,000 = \$ 31,884.00
Depreciation	\$ 250,000 = \$ 39,885.00
Profit	\$3,100,000 = \$494,203.00
Taxable Value	1,131,914.00
	\$ 7,768,086.00"

As explained in more detail later, the effect of defendant's 12/20/82 amendment would be to tax gross sales.

Although perhaps not all encompassing or the only way coal is mined and processed in the state of Montana, the following method is agreed for purposes of this lawsuit to be a typical method of strip mining coal in the state of Montana, to-wit:

1. Topsoil is removed by scrapers and either stockpiled for use in reclamation of the area or applied to an area currently being reclaimed.

2. Overburden is then removed by either a dragline or by use of a mechanized "shovel" and trucks. The overburden is also either used in

1/23/91

5139-3

1 was interpreted to mean the gross value of the product at
2 the "mine mouth" which in the case of these plaintiffs had
3 been interpreted by the Department of Revenue as gross value
4 at the time the coal was taken from the pit and loaded onto
5 a truck. The instructions sent to the coal companies to aid
6 them in their computation under the 4/6/74 rules and an
7 illustrative computation follow:

8 Instructions Implementing 4/6/74 Rules

9 "RITT: VALUATION OF COAL AT MINE MOUTH

10 "During the recent audits of the coal RITT, the Montana Department
11 of Revenue has had problems in trying to arrive at a uniform method
12 of valuing coal at mine mouth. This meeting is to obtain input
13 from the various coal companies to help resolve this problem.

14 "To begin with, this department will give what it believes to be
15 the correct method of computing mine mouth value and request your
16 ideas and comments. In helping to determine the mine mouth value,
17 we have used the case of Hillard vs. Big Horn Coal Company, 549 P.,
18 2nd 293, as a guideline.

19 "To derive a mine mouth value, we computed as follows:

20 "Gross sales

21 "Less: Post mining costs to include

- 22 1. Crushing
- 23 2. Transportation
- 24 3. Expenses of post mining equipment to include
 - 25 a. depreciation
 - 26 b. labor
 - 27 c. supplies
 - 28 d. property taxes

29 "Less: Indirect costs attributable to both mining and post mining
30 operations based on % to total costs to include:

- 31 1. Severance tax
- 32 2. Gross Proceeds
- 33 3. RITT
- 34 4. Black Lung
- 35 5. Federal reclamation tax
- 36 6. Supervisory costs
- 37 7. Sales & general expenses
- 38 8. Depreciation
- 39 9. Net profit

40 "Royalty and reclamation costs are not deductible.

41 "Attached is a simplified example of a computation for mine mouth
42 value."

SENATE TAXATION

EXHIBIT NO. 9
1/23/91
BILL NO. SB 93COAL RITT AT .4% & .5%
CALENDAR YEARS 1988 & 1989

COMPANY	QTR	C.S.P.	RITT @ .4% (A * .004)	RITT PAID @ .5% CURRENT LAW	DIFFERENCE (B - C)
#####		A	B	C	D
TOTALS	1/88	\$85,451,805	\$341,807.22	\$0	
	2/88	\$57,767,988	\$231,071.95	\$0	
	3/88	\$61,859,742	\$247,438.97	\$0	
	4/88	\$67,758,014	\$271,032.05	\$0	
		\$272,837,549	\$1,091,350.20	\$1,054,542.70	\$36,807.50
		=====	=====	=====	=====
	1/89	\$57,429,142	\$229,716.57	\$0	
	2/89	\$59,094,849	\$236,379.40	\$0	
	3/89	\$64,150,573	\$256,602.29	\$0	
	4/89	\$67,624,245	\$270,496.98	\$0	
		\$248,298,808	\$993,195.23	\$992,114.16	\$1,081.07
		=====	=====	=====	=====

Senator Towe moved to amend the bill as per amendment #4 on the attached standing committee report.

The motion CARRIED unanimously.

Senator Thayer wanted to be on the record as noting there are two sides to the argument for the bill based on 20,000 bushels of grain being used for ethanol production. He said that will also cause some displacement in the agriculture industry.

Recommendation and Vote:

Senator Koehnke moved SB 77 Do Pass As Amended.

The motion CARRIED unanimously with Senators Brown and Van Valkenburg absent.

EXECUTIVE ACTION ON SENATE BILL 93

Motion:

Senator Gage moved SB 93 Do Pass.

Discussion:

Senator Towe asked if this is FOB or contract sales price.

Senator Gage answered it is based on the contract sales price.

Senator Eck said a great deal of money, approximately \$6 - \$7 million, was lost when the metal mine RITT rate was changed and she is concerned that this will do the same thing.

Mr. Ebzery said this bill puts the RITT tax under the other coal tax bills for compilation purposes. It is just a formula change.

Mr. Adams said the original fiscal note changes the base of the tax. The mine mouth price is lower than the contract sales.

Amendments, Discussion, and Votes:

Senator Towe made a substitute motion to amend the rate on page 3 from ".4" to ".5". He said the original intent was to tax at the gross value of the coal in the ground and at .5 value of all the minerals. Everything else is a .5 and he felt this should be also.

Senator Gage said the tax is .5 at the well site for oil and gas. It is not taxed at the delivery point or refinery point. He said it is very difficult to tax it at the point at which it is taken out of the ground. It is easier to adjust the rate to the sales price.

Senator Towe said Judge Bennett allowed costs of mining as deductions in his decision. He felt the value of the oil at the well head and the coal at contract sales prices (all taxes excluded) were very comparable and should be taxed at .5.

The motion CARRIED on a roll call vote (Exhibit #3).

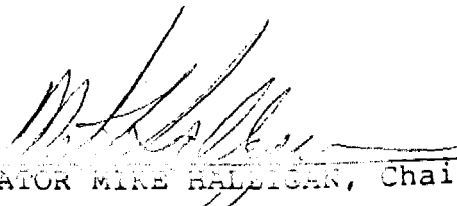
Recommendation and Vote:

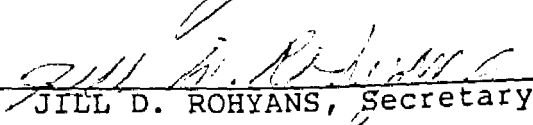
Senator Gage withdrew his original motion and moved to TABLE SB 93.

The motion CARRIED with Senator Towe voting no and Senators Brown and Van Valkenburg absent.

ADJOURNMENT

Adjournment At: 10:00 a.m.


SENATOR MIKE HALLORAN, Chairman


JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 1/29/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN			X
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG			/
SEN. YELLOWTAIL	X		

Each day attach to minutes.

ROLL CALL VOTE

EXHIBIT NO. 3

DATE: 1/29/91

BILL NO. SA 93

SENATE COMMITTEE ON TAXATION

Date 1/29 S Bill No. 93 Time 9:55

NAME	YES	NO
SEN. HALLIGAN		X /
SEN. BROWN		
SEN. ECK	X	
SEN. GAGE		X
SEN. VAN VALKENBURG		
SEN. HARP		X
SEN. YELLOWTAIL	X	
SEN. THAYER		X
SEN. TOWE	X	
SEN. KOEHNKE	X	
SEN. DOHERTY	X	

Secretary

Chairman

Motion: time amend to .5

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on February 4, 1991, at 9:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused:

John Harp (R)

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

None

EXECUTIVE ACTION ON SENATE BILL 93

Motion:

Senator Doherty moved to remove SB 93 off the table for purposes of amending. He explained the bill was amended in committee previously on page 3, line 1, changing the rate of "0.4%" to "0.5%". He said it was his intention to change the rate back to the 0.4% rate. The motion CARRIED unanimously with Senators Harp and Brown absent.

Amendments, Discussion, and Votes:

Senator Doherty moved to amend the bill on page 3, line 1, by striking the previous amendment of "0.5%" back to the original rate in the bill of "0.4%". (The bill was previously amended 1/29/91 and then tabled.)

Senator Doherty continued a good argument was presented for changing the computation of the RITT tax rate on coal. He noted, because of the Bennett decision, 0.4% is the effective rate at which the coal is currently being taxed. He felt changing the rate of the tax is a separate issue and should be addressed in another bill. He stressed the importance of the revenue neutrality issue. He said he is taking this action on Senate Bill 93 because of the Department of Revenue estimates and the testimony on the bill which indicated the revenue neutrality is preserved as the bill is written.

Senator Gage made a comment on revenue neutrality. He said many people have the mistaken opinion that, regardless of what happens, the same amount of revenue will be generated. Senator Gage said his interpretation of revenue neutrality with regard to production is "given the same level of production and the same price, this is revenue neutral".

Senator Towe said his concern is that before the Bennett decision, the coal companies were paying this extra amount. He felt it was a mistake to give in to the coal companies. He said the legislature should do what was originally intended and tax at 1.5% of the coal value, not the reduced net value which is what the amendment does.

The motion to amend the tabled SB 93 CARRIED with Senator Towe voting no.

Recommendation and Vote:

Senator Doherty moved SB 93 DO PASS. The motion CARRIED with Senator Towe voting no.

EXECUTIVE ACTION ON SENATE BILL 128Motion:

Senator Halligan moved to amend the bill as per the amendments written in in the attached copy of the bill (Exhibit #1). He pointed out the seasonal sales tax is eliminated in the bill. He also presented a suggested definition of "destination resort" for the committee's consideration (Exhibit #2).

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 2/4/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP			X
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

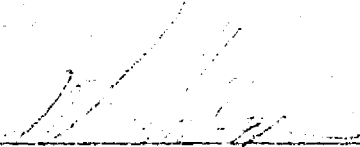
Each day attach to minutes.

5
2/4/91
SB 120
SENATE STANDING COMMITTEE REPORT

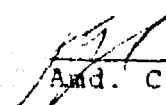
Page 1 of 1
February 4, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 93 (first reading copy -- white), respectfully report that Senate Bill No. 93 do pass.

Signed: 

Mike Halligan, Chairman

 2-4-91
And. Coord.

SB 2-4 2:45
Sec. of Senate

EXECUTIVE ACTION ON HB 457

Discussion:

REP. ELLIOTT wanted to retrieve HB 457 from the subcommittee to put it on the table. He stated that it was not his intention to apply the bill to a large corporation doing business in the state and doesn't know how it can be fixed. He feels that taxes on profits are better than severance taxes because severance taxes (unit or ad valorem) puts a squeeze on the margin when prices go up or down. Profits are a better place to do this because it doesn't increase the cost of doing business. The oil industry has been less than forthright in providing accurate figures on which legislative policy can be based. We need trust.

Motion/Vote: REP. ELLIOTT MOVED HB 457 BE TABLED. Motion carried unanimously by voice vote.

HEARING ON SB 93

Presentation and Opening Statement by Sponsor:

SEN. DELWYN GAGE, Senate District #3, Cut Bank, stated SB 93 is an act revising the resource indemnity trust tax by changing the rate of tax on coal and the method of valuing coal.

He stated the determination to use mine mouth cost as the method of valuing coal for determination of taxes began in 1984. SB 93 says to look at this realistically and make it easy for all, including the DOR and Base it on the contract sales price.

The fiscal note indicated the impact on the resource indemnity trust fund and that there was an error in its computation. He supplied the committee with a new one. EXHIBIT 11 He stated it would be as tax neutral as we can get and it would be good for DOR and the coal companies in Montana.

Proponents' Testimony:

Jim Mockler, President, Montana Coal Council, stated the problem is administrative. It is not a tax issue. SB 93 eases the administration of the DOR and the industry because it is based on the contract sales price which is what severance tax is based on. It shouldn't cost any money.

Tom Ebrery, Nerco, stated he operates the Spring Creek Mine. Even though Nerco would pay more tax under SB 93, it would reduce the costs of administration.

Ken Williams, Entech, stated SB 93 would simplify administration. Entech would pay more under the revised scheme, but he supported it.

Opponents' Testimony:

Richard Parks, Northern Plains Resource Council, provided written testimony. EXHIBIT 12

Questions From Committee Members:

REP. REAM said that he was confused by the two fiscal note because they did not agree. SEN. GAGE said that they were for different tax years and 1990 has not been filed yet. REP. REAM asked if the bill passed, would it treat the coal producers any differently from the other producers listed in Section 2. SEN. GAGE said no, they are already treated differently. There are three production taxes. Two are based on the contract sales price, which is definable. RITT is based on the point of extraction. No sale occurs so it is hard to value.

REP. COHEN asked SEN. GAGE if the producers would be paying more tax at the proposed .4% that the current .5%. SEN. GAGE said yes but that they would save money at the administration level. REP. COHEN asked Denis Adams, DOR, to comment on the fiscal note. Mr. Adams said that when the fiscal note was calculated, certain assumptions were made including RITT tax paid on the contract sales price. It was not correct. REP. COHEN asked if he could assume the \$235,000 per year in the fiscal note is the difference between the .4% and .5% on the contract sales price. Mr. Adams said yes and that it represented 1/10 of 1% of the contract sales price.

REP. O'KEEFE said currently, there was a whole laundry list of deductions coal companies can take against the contract sales price before they are taxed. SEN. GAGE said if operating costs vary in an industry from year to year, this will happen.

Closing by Sponsor:

SEN. GAGE said the passage of SB 93 would lighten the load for DOR. It would also cost the producers more at the .4% calculation, but they would save money on the administrative level.

Announcements: CHAIR HARRINGTON said HB 677 would be sent to the Property Tax Subcommittee and SB 93 would be sent to the Income/Severance Tax Subcommittee.

EXECUTIVE ACTION ON SB 116

Motion/Vote: REP. STANG MOVED SB 116 BE CONCURRED IN. Motion carried unanimously by a voice vote.

1st x 100
all here

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 2/20/91

2nd
X action

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓	X	
REP. BOB REAM, VICE-CHAIRMAN	✓	X	
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓	X	
REP. ORVAL ELLISON 10:10 ✓	✓	(X)	
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT 10:10 ✓	✓	(X)	
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE 10:10	✓	(X)	
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓	X	
REP. FRED THOMAS 9:55	✓	(X)	
REP. DAVE WANZENRIED 10:10	✓	(X)	

Pro 400
OK

DATE 2-20-91HB SB 93

COAL RITT AT .4% & .5%
CALENDAR YEARS 1988 & 1989

COMPANY	QTR	C.S.P.	RITT @ .4% (A * .004)	RITT PAID @ .5% CURRENT LAW	DIFFERENCE (B - C)
		A	B	C	D
TOTALS	1/88	\$85,451,805	\$341,807.22	\$0	
	2/88	\$57,767,988	\$231,071.95	\$0	
	3/88	\$61,859,742	\$247,438.97	\$0	
	4/88	\$67,758,014	\$271,032.05	\$0	
		\$272,837,549	\$1,091,350.20	\$1,054,542.70	\$36,807.50
	1/89	\$57,429,142	\$229,716.57	\$0	
	2/89	\$59,094,849	\$236,379.40	\$0	
	3/89	\$64,150,573	\$256,602.29	\$0	
	4/89	\$67,624,245	\$270,496.98	\$0	
		\$248,298,808	\$993,195.23	\$992,114.16	\$1,081.07

Northern Plains Resource Council

EXHIBIT 12
DATE 2-20-91
HB SB 93

Testimony of the Northern Plains Resource Council Opposing SB-93, February 20, 1991

Mr. Chairman, members of the committee, my name is Richard Parks. I am an outfitter and guide and have been in the outfitting service in Gardiner, MT. I am appearing today in my role as legislative chair of the Northern Plains Resource Council, a statewide citizens group of approximately 6000 members and supporters.

We oppose SB-93 for two basic reasons. First, for good and sufficient reasons, the tax rate for the Resource Indemnity Trust was set at .5%. We have heard no good reason to lock in what amounts to a 20% reduction in the rate. Second, it is our understanding of the intent behind the Resource Indemnity Trust that it be a tax levied on gross production. It seems to us that the way to respond to Judge Bennett's decision is to clarify that the definition of gross means just that, not some species of net. This state has recent experience with this sort of bill in SB-410 from the last session. It too was proposed as a revenue neutral bill designed to simplify problems for the Department of Revenue. Its actual impact, not revealed by its fiscal note, was to cost the state about \$2,000,000 in the last biennium. We think this experience justifies extreme caution in this case and urge your rejection of SB-93. Thank you.

Richard C. Parks

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Taxation

COMMITTEE

BILL NO. SB 93

DATE 2/20/91

SPONSOR(S)

Sen. Gage

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Vote: Motion carried 15 to 3 with REPS. O'KEEFE, REAM, and STANG voting no.

Motion/Vote: REP. REAM MOVED SB 226 BE CONCURRED IN AS AMENDED.
Motion carried 11 to 9. Exhibit 6

DISCUSSION ON SB 333

Motion: REP. REAM moved to adopt the DOR amendments to SB 333.
Exhibit 7

REP. THOMAS asked whether the DOR amendments have as complete a grandfather provision as the other set of amendments offered in SB 333's previous hearing.

Jeff Miller, DOR, said in the past, people made investment decisions on the basis of a law that is being changed by SB 333. DOR amendments state if a person is in compliance with current law, and continue to meet the requirements of filing and paying taxes on the corporate level, that person will be grandfathered. The other set of amendments offered in subcommittee covered a situation which DOR feels is currently outside the law, and dealing with illegal situations is not within the scope of this committee's duties.

Mr. Miller said Montana allows people to choose whether to be taxed at the corporate level or at the individual level. People will have until the end of 1991 to elect the exception that is in current law. After that point, everyone will be on the same level.

Vote: Motion carried unanimously.

Motion/Vote: REP. REAM MOVED SB 333 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

REP. STANG agreed to carry the bill on the floor.

DISCUSSION ON SB 93

Judy Rippingale, DOR, said the committee had asked the department to compare the method and amounts collected 10 years ago with the amounts collected by the proposed bill. The department could only go back eight years; the total for the elapsed eight years was an \$86,000 difference (slightly over \$10,000/year).

Motion/Vote: REP. MCCARTHY MOVED SB 93 BE CONCURRED IN AS AMENDED. Motion carried 12 to 7.

DISCUSSION ON SB 111

REP. COHEN said SB 111 had been amended in subcommittee and received a positive recommendation.

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE

4/8/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	X		
REP. BEN COHEN, VICE-CHAIRMAN	X		
REP. BOB REAM, VICE-CHAIRMAN	X		
REP. ED DOLEZAL	X		
REP. JIM ELLIOTT	X		
REP. ORVAL ELLISON		X	
REP. RUSSELL FAGG	X		
REP. MIKE FOSTER	X		
REP. BOB GILBERT	X		
REP. MARIAN HANSON	X		
REP. DAVID HOFFMAN		X	
REP. JIM MADISON	X		
REP. ED MCCAFFREE	X		
REP. BEA MCCARTHY	X		
REP. TOM NELSON	X		
REP. MARK O'KEEFE	X		
REP. BOB RANEY	X		
REP. TED SCHYE	X		
REP. BARRY "SPOOK" STANG	X		
REP. FRED THOMAS	X		
REP. DAVE WANZENRIED	X		

HOUSE STANDING COMMITTEE REPORT

April 8, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 93 (third reading copy -- blue) be concurred in.

Signed: [Signature]
Dan Harrington, Chairman